

- 2 -

G. OLARU
Appl. No. 10/726,482***Remarks***

Reconsideration of this Application is respectfully requested. Claims 1, 3-16, 19 and 20 are pending in the application, with claims 1, 4, 15, and 16 being the independent claims.

Rejections under 35 U.S.C. § 103

Claims 1-4, 6-9, 12, 13, and 15-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,761,557 to Gellert et al. in view of U.S. Patent No. 6,043,466 to Jenko et al.

The Examiner stated in the Office Action that

Gellert ('557) teaches a nozzle body having a melt channel with a first heater (102/106) securely attached to the nozzle body. However, Gellert et al. ('557) does not teach a second heater being slideably attached and partially overlapping the first heater. Jenko et al. ('446) teaches a slide-on heater clamp (100) designed for clamping to an object for heating purposes, especially a nozzle or a hot runner channel (see Abstract).

Depending on how far up the body of a nozzle the clamp heater is placed would determine whether or not the first heater of a hot runner channel and the second heater would overlap.

Office Action, p. 3. The Examiner further stated that

it would have been obvious to one skilled in the art to have modified the heated hot runner melt nozzle of Gellert ('557) with the slide-on, heater clamp of Jenko et al ('455) [*sic*, ('466)] in order to provide a nozzle that can be operated in at a potentially higher temperature than originally

- 3 -

G. OLARU
Appl. No. 10/726,482

designed, or as a temporary repair to a hot melt runner nozzle that has experienced a heater failure.

Office Action, p. 4. Applicant respectfully traverses the rejection.

In response to Applicant's argument that the Examiner has failed to show a motivation to combine the cited references, the Examiner amended the alleged motivation to combine. However, it is still lacking. The Examiner asserts that motivation is so that the already-heated nozzle of Gellert can potentially be operated at a higher temperature or as a temporary repair, as noted above. However, neither Jenko et al., nor Gellert, provide this motivation.

The Examiner has relied on *In re Fine* to support his obviousness rejection. However, *In re Fine* supports Applicant's assertion that there is no motivation to combine the references. As in *In re Fine*, the Examiner "points to nothing in the cited references, either alone or in combination suggesting or teaching [the claimed] invention." 837 F.2d 1071, 1074 (Fed. Cir. 1988). The Examiner, instead, has used improper hindsight reconstruction by relying on the Applicant's specification as the motivation to combine the references. The specification states that "[i]n some embodiments, the embedded heater may act as the backup heater to the external clamp heater. In some embodiments, the embedded heater and the clamp heater may work simultaneously to improve the heat profile along the length of the nozzle melt bore and provide extra heating in areas of the nozzle where heat escapes faster." Specification, ¶ [0024]. The Examiner has impermissibly used what he has learned from the specification as his motivation to combine the references. "To imbue one of ordinary skill in the art with knowledge of the invention ..., when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious

- 4 -

G. OLARU
Appl. No. 10/726,482

effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983).

Further, Jenko et al. specifically teaches away from the proposed combination. Jenko et al. teaches that its clamp heater is *a replacement for, not an addition to*, embedded or integrated type heaters. In particular, Jenko et al. states,

Integrated electrical heaters are very expensive, very difficult to manufacture, and impossible to replace, unless one sacrifices the entire nozzle. In many instances, it is preferable to use removable electrical heaters that are less expensive, can be easier manufactured, assembled, tested, and serviced. One major problem that has not been solved satisfactory so far is related to the clamping of the heater to the element to be heated so that an intimate thermal contact is established with minimal loss.

Jenko et al., col. 1, lines 25-33. Thus, it is clear that Jenko et al. is directed to improving the clamping technique in clamp-type heaters, and that such clamp-type heaters are to be used instead of, not in addition to, the "very expensive, very difficult to manufacture, and impossible to replace" integrated electrical heaters. Accordingly, Jenko et al. does not support the Examiner's proposition that it provides a teaching to add such a clamp heater to an already heated portion of a nozzle. "It is improper to combine references where the references teach away from their combination." MPEP § 2145.X.D.i.

For the reasons set forth above, independent claims 1, 4, 15, and 16 would not have been obvious in view of the Gellert et al. and Jenko et al. patents. Claims 3, 6-9, 12, 13, 19 and 20 depend from and add features to one of the listed independent claims

- 5 -

G. OLARU
Appl. No. 10/726,482

and are therefore allowable over the Gellert et al. and Jenko et al. patents for at least the same reasons as the independent claim from which they depend. Applicant therefore respectfully requests that the rejection be withdrawn.

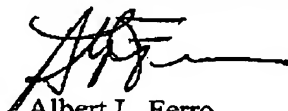
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

MEDLER FERRO PLLC



Albert L. Ferro
Attorney for Applicant
Registration No. 44,679

Date: 3/29/06

8607 Rockdale Lane
Springfield, VA 22153
(410) 788-7684